

William K. Doss, (20097-29)  
BRANNON ROBINSON PC  
1 North Pennsylvania Street, Suite 800  
Indianapolis, IN 46204  
(317) 721-3677 Telephone  
(317) 630-2813 Facsimile  
wdoss@brannonrobinson.com

Attorney for Defendant,  
DANIEL WATT

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

MALIBU MEDIA, LLC,	)	Case No.: 1:12-cv-00841-SEB-MJD
Plaintiff,	)	
v.	)	<b>DEFENDANT’S ANSWER AND</b>
	)	<b>AFFIRMATIVE DEFENSES TO</b>
TOBY REEVES, HAOJIE WANG, DANIEL	)	<b>PLAINTIFF’S FIFTH AMENDED</b>
WATT, CAMERON GAFF, GIANCARLO	)	<b>COMPLAINT</b>
DI MIZIO JR., SEAN MANGYIK,	)	
KRISTINE EIKENBERG, RAMAKANT	)	
MAMIDIDODDI, LEONARDO ALDANA,	)	
WILLIAM MEEKS SR., and JOHN DOES 2,	)	
3, 4, 5, 6, 10, 12, 13, 21, 22 and 23,	)	
Defendants	)	
_____	)	

**COMES NOW** the Defendant, Daniel Watt, by counsel, and for his Answer and Affirmative Defenses to Plaintiff’s Fifth Amended Complaint states as follows:

**Introduction**

1. Paragraph 1 of Plaintiff’s Complaint makes legal conclusions for which no response is required; Defendant admits that Plaintiff is seeking relief under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”), inasmuch as Plaintiff states such to be true.
2. Defendant denies the allegations contained in paragraph 2 of Plaintiff’s Complaint.
3. Defendant denies the allegations contained in paragraph 3 of Plaintiff’s Complaint.

**Jurisdiction**

4. Defendant admits the allegations contained in paragraph 4 of Plaintiff's Complaint.
5. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 5 of Plaintiff's Complaint, and therefore denies same.
6. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 6 of Plaintiff's Complaint, and therefore denies same.

**Parties**

7. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 7 of Plaintiff's Complaint, and therefore denies same.
8. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 8 of Plaintiff's Complaint, and therefore denies same.
9. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 9 of Plaintiff's Complaint, and therefore denies same.
10. Defendant admits the allegations contained in paragraph 10 of Plaintiff's Complaint.
11. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 11 of Plaintiff's Complaint, and therefore denies same.
12. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 12 of Plaintiff's Complaint, and therefore denies same.
13. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 13 of Plaintiff's Complaint, and therefore denies same.
14. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 14 of Plaintiff's Complaint, and therefore denies same.
15. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 15 of Plaintiff's Complaint, and therefore denies same.

16. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 16 of Plaintiff's Complaint, and therefore denies same.
17. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 17 of Plaintiff's Complaint, and therefore denies same.
18. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 18 of Plaintiff's Complaint, and therefore denies same.

**Joinder**

19. Paragraph 19 of Plaintiff's Complaint makes legal conclusions for which no response is required; Defendant denies the allegations, if any, contained in paragraph 18 of Plaintiff's Complaint.

**Factual Background**

20. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 20 of Plaintiff's Complaint, and therefore denies same.
21. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 21 of Plaintiff's Complaint, and therefore denies same.
22. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 22 of Plaintiff's Complaint, and therefore denies same.
23. Defendant denies the allegations of paragraph 23 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 23 of Plaintiff's Complaint, and therefore denies same.
24. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 24 of Plaintiff's Complaint, and therefore denies same.
25. Paragraph 25 of Plaintiff's Complaint is a technological exposition for which no response is required; Defendant admits that Exhibit D to Plaintiff's Complaint appears to be a

Wikipedia entry, and denies the remaining allegations, if any, contained in paragraph 25 of Plaintiff's Complaint.

26. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 26 of Plaintiff's Complaint, and therefore denies same.
27. Defendant denies the allegations of paragraph 27 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 27 of Plaintiff's Complaint, and therefore denies same.
28. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 28 of Plaintiff's Complaint, and therefore denies same.
29. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 29 of Plaintiff's Complaint, and therefore denies same.
30. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 30 of Plaintiff's Complaint, and therefore denies same.
31. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 31 of Plaintiff's Complaint, and therefore denies same.
32. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 32 of Plaintiff's Complaint, and therefore denies same.
33. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 33 of Plaintiff's Complaint, and therefore denies same.
34. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 34 of Plaintiff's Complaint, and therefore denies same.
35. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 35 of Plaintiff's Complaint, and therefore denies same.

36. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 36 of Plaintiff's Complaint, and therefore denies same.
37. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 37 of Plaintiff's Complaint, and therefore denies same.
38. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 38 of Plaintiff's Complaint, and therefore denies same.
39. Defendant denies the allegations of paragraph 39 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 39 of Plaintiff's Complaint, and therefore denies same.
40. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 40 of Plaintiff's Complaint, and therefore denies same.
41. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 41 of Plaintiff's Complaint, and therefore denies same.
42. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 42 of Plaintiff's Complaint, and therefore denies same.
43. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 43 of Plaintiff's Complaint, and therefore denies same.
44. Defendant denies the allegations of paragraph 44 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 44 of Plaintiff's Complaint, and therefore denies same.
45. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 45 of Plaintiff's Complaint, and therefore denies same.

46. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 46 of Plaintiff's Complaint, and therefore denies same.
47. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 47 of Plaintiff's Complaint, and therefore denies same.
48. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 48 of Plaintiff's Complaint, and therefore denies same.
49. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 49 of Plaintiff's Complaint, and therefore denies same.
50. Defendant denies the allegations of paragraph 50 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 50 of Plaintiff's Complaint, and therefore denies same.
51. Defendant denies the allegations of paragraph 51 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 51 of Plaintiff's Complaint, and therefore denies same.
52. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 52 of Plaintiff's Complaint, and therefore denies same.
53. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 53 of Plaintiff's Complaint, and therefore denies same.

**Miscellaneous**

54. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 54 of Plaintiff's Complaint, and therefore denies same.
55. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 55 of Plaintiff's Complaint, and therefore denies same.

**COUNT I**

**Direct Infringement Against Toby Reeves, Haojie Wang, Daniel Watt, Cameron Gaff,**

**Giancarlo Di Mizio Jr., Sean Mangyik, Kristine Eikenberg, Ramakant Mamididoddi,**

**Leonardo Aldana, William Meeks Sr., and John Does 2, 3, 4, 5, 6, 10, 12, 13, 21, 22, and 23**

56. Paragraph 56 of Plaintiff's Complaint is a rhetorical paragraph for which no response is required; Defendant's answers to paragraphs 1-55 are hereby re-asserted as if fully set forth herein.
57. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 57 of Plaintiff's Complaint, and therefore denies same.
58. Defendant denies the allegations of paragraph 58 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 58 of Plaintiff's Complaint, and therefore denies same.
59. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 59 of Plaintiff's Complaint, and therefore denies same.
60. Defendant denies the allegations of paragraph 60 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 60 of Plaintiff's Complaint, and therefore denies same.
61. Defendant denies the allegations of paragraph 61 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 61 of Plaintiff's Complaint, and therefore denies same.
62. Defendant denies the allegations of paragraph 62 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to

the remaining allegations contained in paragraph 62 of Plaintiff's Complaint, and therefore denies same.

## COUNT II

**Contributory Infringement Against Toby Reeves, Haojie Wang, Daniel Watt, Cameron Gaff, Giancarlo Di Mizio Jr., Sean Mangyik, Kristine Eikenberg, Ramakant Mamididoddi, Leonardo Aldana, William Meeks Sr., and John Does 2, 3, 4, 5, 6, 10, 12, 13, 21, 22, and 23**

63. Paragraph 63 of Plaintiff's Complaint is a rhetorical paragraph for which no response is required; Defendant's answers to paragraphs 1-55 are hereby re-asserted as if fully set forth herein.
64. Defendant is without sufficient knowledge to form an opinion as to the allegations contained in paragraph 64 of Plaintiff's Complaint, and therefore denies same.
65. Defendant denies the allegations of paragraph 65 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 65 of Plaintiff's Complaint, and therefore denies same.
66. Defendant denies the allegations of paragraph 66 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 66 of Plaintiff's Complaint, and therefore denies same.
67. Defendant denies the allegations of paragraph 67 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 67 of Plaintiff's Complaint, and therefore denies same.
68. Defendant denies the allegations of paragraph 68 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to



the remaining allegations contained in paragraph 68 of Plaintiff's Complaint, and therefore denies same.

69. Defendant denies the allegations of paragraph 69 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 69 of Plaintiff's Complaint, and therefore denies same.

70. Defendant denies the allegations of paragraph 70 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 70 of Plaintiff's Complaint, and therefore denies same.

71. Defendant denies the allegations of paragraph 71 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 71 of Plaintiff's Complaint, and therefore denies same.

72. Defendant denies the allegations of paragraph 72 of Plaintiff's Complaint as they specifically apply to him, and is without sufficient knowledge to form an opinion as to the remaining allegations contained in paragraph 72 of Plaintiff's Complaint, and therefore denies same.

73. Defendant denies any and all other allegations to which no previous response has been made.

#### **FURTHER ANSWER AND AFFIRMATIVE DEFENSES**

**COMES NOW** the Defendant, by counsel, and for his further Answer and as Affirmative Defenses, denies that he is liable to Plaintiff on any of the claims alleged and denies that Plaintiff is entitled to damages, treble or punitive damages, equitable relief, attorneys' fees, costs, pre-judgment interest or to any relief whatsoever, and states as follows:

**FIRST AFFIRMATIVE DEFENSE – FAILURE TO STATE A CLAIM**

1. Plaintiff has failed to state a claim against Defendant for which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE – NON-INFRINGEMENT**

2. Defendant has not infringed and is not now infringing any allegedly copyrighted work of Plaintiff.

**THIRD AFFIRMATIVE DEFENSE - LACK OF ORIGINALITY**

3. Plaintiff's works lack originality and are thus not protectable by copyright.

**FOURTH AFFIRMATIVE DEFENSE - INVALIDITY AND UNENFORCEABILITY**

4. Plaintiff's copyrights are invalid and/or unenforceable

**FIFTH AFFIRMATIVE DEFENSE – EQUITABLE RELIEF BARRED**

5. Plaintiff's claims for injunctive relief and equitable remedies are barred in light of the fact that Plaintiff has an adequate remedy at law.

**SIXTH AFFIRMATIVE DEFENSE – NO CAUSATION**

6. Plaintiff's claims against Defendant are barred because Plaintiff's damages, if any, were not caused by Defendant.

**SEVENTH AFFIRMATIVE DEFENSE – NO DAMAGES**

7. Without admitting that Plaintiff's Complaint states a claim, there has been no damage in any amount, manner or at all by reason of any act alleged against Defendant in the Complaint, and the relief prayed for in the Complaint therefore cannot be granted.

**EIGHTH AFFIRMATIVE DEFENSE – LACK OF IRREPARABLE HARM**

8. Plaintiff's claims for injunctive relief are barred because Plaintiff cannot show that it will suffer any irreparable harm from Defendant's actions.

**NINTH AFFIRMATIVE DEFENSE – FAILURE TO MITIGATE**

9. The claims made in the Complaint are barred, in whole or in part, because of a failure to mitigate damages, if such damages exist.

**TENTH AFFIRMATIVE DEFENSE – DUPLICATIVE CLAIMS**

10. Without admitting that the Complaint states a claim, any remedies are limited to the extent that there is sought an overlapping or duplicative recovery pursuant to the various claims against Defendants or others for any alleged single wrong.

**ELEVENTH AFFIRMATIVE DEFENSE – ACTIONS OF OTHERS**

11. The claims made in the Complaint are barred, in whole or in part, because Defendants are not liable for the acts of others over whom they have no control.

**TWELFTH AFFIRMATIVE DEFENSE – STATUTE OF FRAUDS**

12. As an Affirmative Defense to the Complaint and to each and every cause of action therein, Plaintiff's Complaint is barred by the Statute of Frauds.

**THIRTEENTH AFFIRMATIVE DEFENSE – ESTOPPEL**

13. As an Affirmative Defense to the Complaint and to each and every cause of action therein, Plaintiff's Complaint is barred by the doctrine of estoppel.

**FOURTEENTH AFFIRMATIVE DEFENSE – LACHES**

14. As an Affirmative Defense to the Complaint and to each and every cause of action therein, Plaintiff's Complaint is barred by the doctrine of laches.

**FIFTEENTH AFFIRMATIVE DEFENSE – FRAUD**

15. As an Affirmative Defense to the Complaint and to each and every cause of action therein, Plaintiff's Complaint is barred by the doctrine of fraud.

**SIXTEENTH AFFIRMATIVE DEFENSE – UNCONSCIONABILITY**

16. As an Affirmative Defense to the Complaint and to each and every cause of action therein, Plaintiff's Complaint is barred by the doctrine of unconscionability.

**SEVENTEENTH AFFIRMATIVE DEFENSE – UNCLEAN HANDS**

17. As an Affirmative Defense to the Complaint and to each and every cause of action therein, Plaintiff's Complaint is barred by the doctrine of unclean hands.

18. Defendants provide notice that they intend to rely upon any additional defenses that become available or apparent during the course of litigation, and reserve the right to amend this pleading and to assert such additional defenses or, if appropriate, delete any of the above-delineated defenses as the litigation proceeds.

**WHEREFORE**, Defendants pray and respectfully request that:

- a. Plaintiff's Complaint be dismissed with prejudice and judgment be entered on behalf of Defendant;
- b. Judgment be entered in favor of Defendant declaring that Defendants is not now infringing and has not in the past infringed Plaintiff's alleged copyrighted works;
- c. An award be entered in favor of Defendant for reasonable attorneys' fees pursuant to 17 U.S.C. §505 and costs incurred in this civil action; and
- d. Any and all other further relief in favor of Defendant as this Court deems just or proper be granted.

Respectfully Submitted this 27<sup>th</sup> day of February, 2012  
BRANNON ROBINSON PC

By: s/ William K. Doss.  
William K. Doss 20097-29  
1 North Pennsylvania Street, Suite 800  
Indianapolis, IN 46204  
(317) 721-3677 Telephone  
(317) 630-2813 Facsimile  
wdoss@brannonrobinson.com  
Attorney for Defendant  
Daniel Watt

## Certificate of Service

**I HEREBY CERTIFY** that on February 27, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. Service of this filing will be made on all ECF-registered counsel through the Court's electronic filing system.

BRANNON ROBINSON PC

By: \_\_\_\_\_ s/ William K. Doss  
William K. Doss 20097-29  
1 North Pennsylvania Street, Suite 800  
Indianapolis, IN 46204  
(317) 721-3677 Telephone  
(317) 630-2813 Facsimile  
wdoss@brannonrobinson.com  
Attorney for Defendant  
Daniel Watt